



INTERIOR BOARD OF INDIAN APPEALS

WELSA Heirship Determination of Leon M. Van Wert

30 IBIA 266 (04/01/1997)

Denying reconsideration of:  
30 IBIA 177



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

WELSA HEIRSHIP DETERMINATION  
OF LEON M. VAN WERT

: Order Denying Petition for  
: Reconsideration  
:  
: Docket No. IBIA 97-13  
:  
: April 1, 1997

The Board of Indian Appeals (Board) issued a decision in the above matter on January 15, 1997. 30 IBIA 177. On March 27, 1997, it received a letter from Steven A. Campbell, Esq., Saint Paul, Minnesota, on behalf of Charlene Van Wert (Petitioner). The letter states in its entirety:

I was recently asked by [Petitioner] to contact you. My question is what is the next level of appeal for [Petitioner]? Is it the Federal District Court? Also would you allow the record to [be] reopened to submit affidavits from family members to verify paternity?

I did not represent [Petitioner] prior to March 1997. I have in other BIA paternity cases submitted affidavits from extended family members to establish paternity. I would appreciate very much if I could receive a list of the exhibits or any documentary evidence that the ALJ used to make her decision.

If you determine that [Petitioner's] time to submit evidence has expired and the case should not be reconsidered would you please let me know the same.

The Board treats this letter as a petition for reconsideration.

Regulations governing White Earth Reservation Land Settlement Act (WELSA) heirship determinations are found in 43 C.F.R. §5 4.350-4.357. These regulations were intended to provide all of the procedures for hearing WELSA heirship cases. The regulations do not provide for reconsideration of Board decisions.

Assuming for purposes of this order only that the Board has authority to reconsider a WELSA heirship determination, that authority would arise from 43 C.F.R. § 4.315(a), which provides that a petition for reconsideration must be filed "within 30 days from the date of the decision." This petition for reconsideration was filed considerably later than 30 days from January 15, 1997, and is therefore untimely.

Furthermore, even if the Board could entertain this petition for reconsideration, the petition requests an opportunity to file affidavits from family members concerning whether Leon M. Van Wert was Petitioner's father. The Board gave Petitioner an opportunity to provide any additional evidence of paternity, specifically including affidavits from family members, during its initial consideration of this appeal. Petitioner failed to respond.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this petition for reconsideration is denied. Under 43 C.F.R. § 4.356(e), the Board's January 15, 1997, decision affirming Administrative Judge Sandra Massetto's September 17, 1996, order determining the heirs of Leon M. Van Wert is final for the Department of the Interior.

//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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Anita Vogt  
Administrative Judge